



POLICY ON PAYING CAMPAIGN FUNDS TO FAMILY MEMBERS

This memorandum describes the policies and procedures regarding the use of campaign funds to pay a member of the candidate's family or household, which were established by the Maine Ethics Commission pursuant to statutory changes enacted during the First Special Session of the 123rd Legislature (P.L. 2007, c. 567 (eff. July 18, 2008) and c. 571 (eff. April 7, 2008)).

DISCLOSING A PAYMENT TO A MEMBER OF THE CANDIDATE'S FAMILY OR HOUSEHOLD (applies to gubernatorial, legislative, and county candidates)

- *Traditionally financed candidates.* If a candidate uses campaign funds to pay or reimburse a member of the candidate's household, the candidate must report the family or other relationship (e.g., "brother" or "roommate") in the remarks section of Schedule B (for expenditures) of the campaign finance report. (P.L. 2007, c. 567 (eff. July 18, 2008))
- *Maine Clean Election Act candidates.* If a candidate uses Maine Clean Election Act funds to pay or reimburse a member of the candidate's "immediate family" (defined below), a member of the candidate's household, or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family or household relationship (e.g., "spouse," "domestic partner," "brother," "roommate," or "business owned by daughter") in the remarks section of Schedule B of the campaign finance report. (P.L. 2007, c. 571 (eff. April 7, 2008))

For purposes of this disclosure requirement, "immediate family" means the candidate's spouse, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, or domestic partner. 21-A M.R.S.A. §§ 1(20) & 1122(4-A))

NEW RESTRICTIONS FOR MAINE CLEAN ELECTION ACT CANDIDATES (21-A M.R.S.A. § 1125(6-B), enacted by P.L. 2007, c. 567 (eff. July 18, 2008))

In 2008, the Legislature enacted a broad prohibition against the use of Maine Clean Election Act (MCEA) funds to pay:

- the candidate,
- a member of the candidate's household, or
- a business, corporation or nonprofit entity in which the candidate or a member of the candidate's household holds a significant proprietary or financial interest.

(over)

The Legislature also provided two narrow exceptions to this prohibition:

I. Permitted Payments to the Candidate and Household Members

A candidate may only use MCEA funds to pay the candidate, a member of the candidate's household, or a business, corporation or nonprofit entity in which the candidate or a member of the candidate's household holds a significant proprietary or financial interest if the candidate submits evidence to the Commission that the expenditure will be made:

- for a legitimate campaign-related purpose,
- to an individual or business that provides the goods or services being purchased in the normal course of their occupation or business, and
- in an amount that is reasonable taking into consideration current market value and other factors the Commission may choose to consider.

Timing of Submitting Evidence; Procedure for Commission Action

If a candidate intends to pay MCEA funds to an individual or entity covered by 21-A M.R.S.A. § 1125(6-B), the candidate must submit the evidence required by the statute to the Commission for its approval before entering into an obligation to the payee. The Commission staff shall consider this evidence to determine whether the expenditure, in its view, meets the requirements of 21-A M.R.S.A. § 1125(6-B) and submit its views to the candidate and the Commission. The staff may request additional relevant evidence and, after considering it, the staff shall notify the candidate and the Commission of any proposed expenditure which, in its view, does or does not meet the requirements of 21-A M.R.S.A. § 1125(6-B).

The Commission must hold a hearing on the matter at the next regularly scheduled meeting of the Commission to determine if the proposed expenditure meets the requirements of the statute.

Evidence Submitted

The candidate should provide information that establishes that the proposed payee currently is employed by or is engaged in a business that provides the goods or services. The candidate should state the proposed price for the goods and services, and include a justification for that amount. In most cases, the justification will include information from the proposed payee regarding the usual price for providing such goods and services to other clients. The candidate should also explain how the goods or services are campaign-related.

II. Reimbursements

Reimbursements, including travel reimbursements, that are made in accordance with the Commission's rules and guidelines are exempt from this restriction and from the pre-approval process. However, the candidate must disclose the family or household relationship when reporting the reimbursement as described above.

If a MCEA candidate or a family or household member uses personal funds or a personal credit card to pay a vendor for campaign goods or services, the candidate must reimburse the individual with MCEA funds. (There are limited circumstances when reimbursement is not required. Please refer to the *2008 Candidate Guide* for more information.)